

1 COMMITTEE SUBSTITUTE

2 FOR

3 **Senate Bill No. 78**

4 (By Senators Foster, Stollings, Hall and Klempa)

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6 [Originating in the Committee on the Judiciary;  
7 reported February 3, 2011.]  
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11 A BILL to amend the Code of West Virginia, 1931, as amended, by  
12 adding thereto a new article, designated §16-43-1, §16-43-2  
13 and §16-43-3, all relating to tanning facilities use by  
14 minors; defining terms; requiring consent for minors aged  
15 fourteen to seventeen to use tanning devices within tanning  
16 facilities; requiring parental accompaniment for minors under  
17 age fourteen to use tanning devices within tanning facilities;  
18 and specifying warning language and consent form language.

19 *Be it enacted by the Legislature of West Virginia:*

20 That the Code of West Virginia, 1931, as amended, be amended  
21 by adding thereto a new article, designated §16-43-1, §16-43-2 and  
22 §16-43-3, all to read as follows:

23 **ARTICLE 43. TANNING FACILITIES.**

24 **§16-43-1. Definitions.**

25 As used in this article:

1 (1) "Tanning device" means any equipment that emits radiation  
2 used for tanning of the skin, such as a sun lamp, tanning booth or  
3 tanning bed, and includes any accompanying equipment, such as  
4 protective eyewear, timers and handrails.

5 (2) "Tanning facility" means any commercial location, place,  
6 area, structure or business where a tanning device is used for a  
7 fee, membership dues or other compensation.

8 **§16-43-2. Consent required for minor using tanning device within**  
9 **a tanning facility.**

10 (a) Before any person who has reached his or her fourteenth  
11 birthday and has not passed his or her eighteenth birthday uses a  
12 tanning device within a tanning facility, he or she shall give the  
13 tanning facility a copy of the consent form described in section  
14 three of this article, signed by his or her parent or legal  
15 guardian, stating that the parent or legal guardian has read and  
16 understood the statement of warning given by the tanning facility  
17 and that they consent to the minor's use of the tanning device and  
18 agree that the minor will use protective eyewear. This parental  
19 consent is valid for one calendar year and shall be kept on file by  
20 the tanning facility for at least one calendar year.

21 (b) A person under the age of fourteen shall be accompanied by  
22 a parent or legal guardian when using a tanning device within a  
23 tanning facility. The parent or legal guardian accompanying the  
24 person under the age of fourteen to the tanning facility shall be  
25 given a copy of the consent form described in section three of this  
26 article on the minor's first visit to the tanning facility. This

1 consent form shall be signed by the minor's parent or legal  
2 guardian, stating that the parent or legal guardian has read and  
3 understood the statement of warning given by the tanning facility  
4 and that they consent to the minor's use of the tanning device and  
5 agree that the minor will use protective eyewear. This parental  
6 consent is valid for one calendar year when the person under the  
7 age of fourteen is accompanied by the minor's parent or guardian,  
8 and shall be kept on file by the tanning facility for at least one  
9 year.

10 **§16-43-3. Consent Form**

11 (a) A tanning facility shall give each person under age  
12 eighteen who wishes to use a tanning device located within its  
13 tanning facility a consent form relating to use of a tanning device  
14 that must include, at a minimum, the following warning: "Repeated  
15 exposure or overexposure in a tanning device may cause health  
16 problems including, but not limited to, burns, eye damage, skin  
17 sensitivity, premature aging of the skin or skin cancer. Any  
18 person who takes a prescription or over-the-counter medication  
19 should consult a physician before using a tanning device."

20 (b) Below the warning listed in subsection (a) of this  
21 section, the consent form must include the following language: "I,  
22 \_\_\_\_\_, confirm that I am the parent or legal guardian  
23 of \_\_\_\_\_, who is \_\_\_\_\_ years old and was born on  
24 \_\_\_\_\_. I have read and understood the warning listed  
25 above and hereby give my consent that the minor whose name is  
26 listed above may use a tanning device at this tanning facility with

1 the use of protective eyewear." Thereafter, the consent form must  
2 have a place for the parent or guardian's signature and the date.  
3 Below the signature and date line, the consent form must state:  
4 "This consent form is valid for one year from the date of consent,  
5 as listed above."

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(NOTE: The purpose of this bill is to require parental consent for minors to use a tanning device within a tanning facility and parental accompaniment for minors under the age of fourteen while using a tanning device within a tanning facility.

This article is new; therefore, strike-throughs and underscoring have been omitted.)